



Commonwealth of Massachusetts
Executive Office of Health and Human Services
Division of Medical Assistance
600 Washington Street
Boston, MA 02111

Eligibility Operations Memo 02-10
April 1, 2002

TO: MassHealth Eligibility Operations Staff

FROM: Russ Kulp, Assistant Commissioner for Member Services

A handwritten signature in black ink, appearing to read "Russ Kulp".

RE: **End of the Five-Year Bar for Aliens with Special Status**

Introduction

Federal law states that certain aliens who entered the United States (U.S.) on or after August 22, 1996, are not eligible for any federal means-tested public benefit for a period of five years beginning on the date they attain "qualified alien" status.

The Division classifies most of these aliens as either "protected aliens" or "aliens with special status" during the five-year bar period. These aliens are afforded eligibility for various MassHealth coverage types that are fully state-funded. Aliens with the following statuses who arrived on or after August 22, 1996, are affected by the five-year bar and receive state-funded benefits.

- Persons admitted for legal permanent residence (LPR) under the Immigration and Nationality Act (INA).
- Persons granted parole for at least one year under section 212(d)(5) of the INA.
- Conditional entrants under section 203(a)(7) of the INA as in effect before April 1, 1980.

Beginning August 22, 2001, the five-year bar began expiring for aliens who entered the U.S. in one of the above statuses five or more years ago.

**Special Rules for
the Five-Year Bar**

The following special rules apply when determining if aliens who entered the U.S. in one of the three statuses listed above are subject to the five-year bar.

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**Special Rules for
the Five-Year Bar**
(cont.)

1. If an alien legally entered the U.S. before August 22, 1996, in one of the three statuses listed above, or attains one of the three statuses listed above before August 22, 1996, the alien is not subject to the five-year bar.

Example #1: An alien has documentation ("Green card") showing legal entry into the U.S. on March 12, 1994, as an LPR. The alien is not subject to the five-year bar, and is considered a "qualified alien."

2. If an alien legally entered the U.S. before August 22, 1996, but attains one of the three statuses listed above on or after August 22, 1996, the alien will not be subject to the five-year bar if he or she has been continuously present in the U.S. from his or her latest date of entry before August 22, 1996, until the alien attained one of the three statuses listed above.

In general, verification of continuous presence only applies when an alien has entered the U.S. before August 22, 1996, and attains one of the three statuses on or after this date. Any single absence from the U.S. of more than 30 days, or a total of combined absences of more than 90 days, would interrupt "continuous presence." Examples of verification to prove "continuous presence" would be tax returns, bills, rent receipts, or an employer letter.

Example #2: An alien has documentation showing legal entry into the U.S. on February 1, 1995. On July 1, 1998, the alien attains LPR status. The alien has been continuously present in the U.S. from February 1, 1995, through July 1, 1998. If the alien proves continuous presence in the U.S., he or she is not subject to the five-year bar, and is considered a "qualified alien."

Note: If the alien cannot prove continuous presence in the U.S., he or she is subject to the five-year bar beginning on July 1, 1998, and is considered an "alien with special status."

3. If an alien legally entered the U.S. on or after August 22, 1996, but does not attain one of the three statuses listed above until later, the five-year bar will begin on the date the alien attains one of the three statuses listed above.

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**Special Rules for
the Five-Year Bar
(cont.)**

Example #3: An alien has documentation showing legal entry into the U.S. on March 1, 1998. On September 1, 2000, the alien attains LPR status. The alien is subject to the five-year bar beginning on September 1, 2000, and is considered an “alien with special status.”

**U.S. Entry Date on
MA21**

If an alien has one of the three statuses listed above (LPR, person granted parole for at least one year, or conditional entrant), the **entry date** on the MA21 Qualified Alien Citizen (QAC) screen is the date the alien attained one of those statuses, unless the alien verifies continuous presence in the U.S. as described in Example #2 above. In Example #2, the alien who verified his or her continuous presence would have an entry date of February 1, 1995, on the QAC screen. If the alien did not verify continuous presence, his or her entry date on the QAC screen would be July 1, 1998.

Division Review

The Division, through an automated process, reviews and determines aliens (who are subject to the five-year bar on MA21) for federally funded benefit eligibility. This review upgrades those aliens with special status to MassHealth Standard coverage or other federally funded benefit if:

- five years have passed since their U.S. entry date on file; and
 - they meet all other eligibility criteria.
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**Request for
Standard Eligibility
Based on
Continuous
Presence**

If an alien who is subject to the five-year bar requests an eligibility determination for MassHealth Standard coverage based on having entered the U.S. before August 22, 1996, the alien must provide verification of continuous presence in the U.S. from his or her latest date of entry before August 22, 1996, until he or she attained a status of LPR, person granted parole for at least one year, or conditional entrant on or after August 22, 1996. If you receive such a request, please have your enrollment center designee contact the Policy Hotline for instructions on how to proceed.

Reminder

When determining the eligibility of an alien for MassHealth, regardless of the alien's age, it is important to accurately establish immigration status. In some instances, an alien may list more than one immigration status on the application. Please make sure you always code MA21 or PACES with the status that provides the applicant or member with the most comprehensive coverage.

Questions

If you have any questions about this memo, please have your enrollment center designee contact the Policy Hotline at 617-210-5331.
